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Settlement Date: March 19, 2020
Time: 3:00 p.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Confirmed and Closed Chapter 11

CLAUDIO MEZA,

Case No. 11-47197-nhl

Debtor.

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**NOTICE OF SETTLEMENT OF PROPOSED ORDER APPLICATION AND
PROPOSED ORDER GRANTING DEBTOR'S MOTION FOR AN ORDER (1)
REOPENING CASE, (2) DISCHARGING DEBTOR, AND (3) WAIVING FILING FEE**

PLEASE TAKE NOTICE that the above-captioned Debtor Claudio Meza (the "Debtor") shall present the annexed proposed order for signature on **March 19, 2020, at 3:00 p.m.** The proposed order will be presented to the Honorable Nancy Hershey Lord, United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York 11201.

PLEASE TAKE FURTHER NOTICE that no hearing will be held absent the timely filing of an objection. If an objection is timely filed, the Court will notify the moving and objecting parties of the date and time of any hearing. If you wish to object to the entry of the proposed order, you must state your objection in writing, state the reasons for your objection, file the original objection electronically or in paper form with the Clerk of the Bankruptcy Court, with a copy for Judge Lord's Chambers, no later than **March 12, 2020, at 3:00 p.m.** The objection must be accompanied by Proof of Service. If an objection is filed, the Court will schedule a hearing; you will receive notice of the hearing date.

Dated: February 6, 2020
Astoria, New York

S/Norma E. Ortiz
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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Confirmed and Closed Chapter 11

CLAUDIO MEZA,

Case No. 11-47197-nhl

Debtor.

-----X

**DEBTOR’S MOTION FOR AN ORDER (1) REOPENING CASE,
(2) DISCHARGING DEBTOR, AND (3) WAIVING FILING FEE**

TO THE HONORABLE NANCY HERSHEY LORD,
UNITED STATES BANKRUPTCY JUDGE:

Claudio Meza (the “Debtor”), by his attorneys, Ortiz & Ortiz, LLP, respectfully
represents as follows:

Background

1. On August 19, 2011, the Debtor filed a voluntary Chapter 11 petition. On July 21, 2014, the Plan of Reorganization (the “Plan”), was confirmed by order of this Court, and the Court therein authorized the implementation of the Plan.

2. Subsequently, the Plan was substantially consummated as provided in Section 1101(2) of the Code. The Debtor commenced disbursement of his plan payments and moved the Court for an order closing the case and for a final decree. That order was entered on December 23, 2014 [ECF No. 116]. The case was closed on January 7, 2015.

3. As set forth in the annexed Declaration of the Debtor, he has completed all

payments required under the Plan and seeks the entry of an order of discharge.¹ In addition, because he seeks to reopen for the sole purpose of obtaining a discharge, he requests that the Court waive the filing fee for reopening the case.

Jurisdiction

4. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(L), and this Court has jurisdiction to enter a final order with respect thereto. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for relief are 11 U.S.C. §§ 105 and 1141.

Relief Requested

5. The Debtor requests that the Court enter an order that reopens his case, grants him a discharge, and waives the filing fee. Bankruptcy Code Section 1141(d)(5) provides in relevant part that an individual chapter 11 debtor may not obtain a discharge until he completes all plan payments. As set forth in the annexed Declaration of the Debtor, he has completed his plan payments and should receive a discharge.

6. Because the case has been closed, the Debtor must re-open its case to seek the entry of an order granting him a discharge under Bankruptcy Code Section 350. 28 U.S.C. § 1930 provides that the cost for re-opening a Chapter 11 case is \$1,167.00. However, the Court may waive the fee under appropriate circumstances under Section 1930(f)(3) (stating in relevant part that the bankruptcy court may waive fees prescribed under this section). See also In re Garcia, 2018 WL 3524581 (Bankr. E.D. Mass. 2018) (discussing the numerous policy issues

¹ One of the creditor's checks were returned to the Debtor. The Debtor has saved the checks and we are attempting to find an alternative address. However, the total amount due under the Plan to the creditor, Citibank, is \$143.18. It is a *de minimis* amount that should not preclude the relief sought. The undersigned believes we can forward the missing payment to Citibank's legal department to rectify this issue.

supporting the finding that fees should be waived when an individual moves to reopen case to obtain a discharge). Local Rule 5010-1(c) appears to contemplate the waiver of such a fee under these circumstances as well. That rule states that no fee shall be due for actions related to a debtor's discharge. The rule also mirrors Section 1930 by stating explicitly that the fees may be waived under appropriate circumstances. Because the fee would be a burden to the Debtor, he requests that the Court waive the fee under the circumstances of his case.

7. Finally, the Debtor requests that the Court enter an order granting him a discharge. The Debtor has no outstanding documents due under Bankr. Rule 1007(b)(7) and is eligible to receive a discharge under these circumstances.

Notice

8. No trustee, examiner, or committee was appointed in this case. Notice of this application has been provided to the U.S. Trustee's Office and all of the Debtor's creditors.

WHEREFORE, the Debtor respectfully requests entry of an order granting the relief requested herein and such other and further relief as the Court may deem just and proper.

DATED: Feb. 1, 2020
Queens, New York

/s/Norma E. Ortiz
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Attorneys for the Debtor
Tel. (718) 522-1117

DECLARATION OF THE DEBTOR

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

CLAUDIO MEZA,

Case No. 11-47197

Debtor.

Chapter 11

-----X

DECLARATION OF CLAUDIO MEZA

The undersigned hereby declares as follows:

1. I filed a Chapter 11 Bankruptcy petition on August 19, 2011. The Court entered an order confirming my plan of reorganization on July 21, 2014. My case was closed by order dated January 7, 2015.

2. As set forth on the list annexed as Exhibit A, my plan provided for payment of no more than four percent to my unsecured creditors and continuing payments on my first mortgage loans outside of the plan. I have fully complied with the terms of the Plan.

3. The only issue I have encountered is that my payments to Citibank have been returned. I have kept all of the checks and returned envelopes. My counsel is attempting to locate an alternative address to forward the payments.

4. I request that the Court waive the filing fee imposed for re-opening the case. The fee is substantial and would be a burden to me. I respectfully request that the Court reopen my case and grant me a discharge.

I declare under the penalty of perjury that the foregoing is accurate and true.

Queens, New York
October 15, 2019

S/Claudio Meza
Claudio Meza

PROPOSED ORDER

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Confirmed Chapter 11

CLAUDIO MEZA,

Case No. 11-47197

Debtor.

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**ORDER REOPENING DEBTORS' CHAPTER 11
CASE PURSUANT TO BANKRUPTCY CODE SECTION 350(a),
GRANTING DISCHARGE, AND WAIVING FILING FEE**

Upon the consideration of the motion, dated February 1, 2020 (the "Motion"), of Claudio Meza (the "Debtor"), by his attorneys, Ortiz & Ortiz, LLP, for an Order Reopening Chapter 11 Case, Granting Discharge, and Waving Filing Fee; and it appearing that the Debtor has complied with the terms of his Plan of Reorganization and made all plan payments; and the Debtor having set forth adequate grounds to reopen his case and waive the filing fee set forth in 28 U.S.C. § 1930; all creditors and parties in interest having received notice; and no objection was made to granting the relief requested therein; and sufficient cause appearing therefor, it is

ORDERED, that pursuant to section 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022, Chapter 11 case number 11-47197 (NHL) is hereby re-opened for the sole purpose of granting the Debtor a discharge pursuant to 11 U.S.C. 1141; and it is further

ORDERED, that the Debtor shall not be required to pay the filing fee of \$1,167 set forth in 28 U.S.C. § 1930 for re-opening a Chapter 11 case; and it is further

ORDERED, the Clerk is directed to enter the Debtor's Discharge and Final Decree and to re-close the case.

DATED: _____, 2020
Brooklyn, New York

HON. NANCY HERSHEY LORD
U. S. BANKRUPTCY JUDGE